

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2002-333-C - ORDER NO. 2003-55
FEBRUARY 3, 2003

IN RE: Request of Farmers Telephone Cooperative,)	ORDER GRANTING
Inc. for Approval of Revisions to its General)	MOTION FOR JOINDER,
Subscriber Service Tariff to Increase)	DENYING MOTION TO
Directory Assistance Charges.)	COMPEL, AND
)	MODIFYING PREFILING
)	AND HEARING DATES
)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Motion of the Consumer Advocate for the State of South Carolina (the Consumer Advocate) for an Order which would join FTC Communications, Inc. f/k/a Farmers Long Distance (FTCC) as a necessary and appropriate party to this proceeding. A response to the Motion was filed by Farmers Telephone Cooperative, Inc. (FTC) the Applicant in this case. Based upon the facts of this case, we hold that the Consumer Advocate's Motion should be granted, and the prefiling and hearing dates set by previous Order should be modified.

The relevant facts are as follows. On July 8, 2002, FTC filed a proposed tariff with the Commission which would raise its rates for all of its Directory Assistance (DA) services to \$0.85 per use. The Consumer Advocate filed a Petition to Intervene in the case on October 8, 2002. In informal discussions and in a response to interrogatories from the Consumer Advocate, FTC confirmed that its reason for increasing its DA rates is due to an increase in the wholesale rate for DA services charged by its supplier, which is its

affiliate company FTCC. In order to determine the reasonableness of the proposed increase by FTC, the Consumer Advocate also sought information in his interrogatories which would demonstrate the basis of FTCC's wholesale rate. The response from FTC indicated that the information was proprietary and/or should be sought from FTCC. The Consumer Advocate states that, given the affiliate relationship between the companies, it is imperative that the Commission examine the basis for FTC's proposed increase in DA rates due to the increase in price from its affiliate FTCC. The Consumer Advocate cites S.C. Code Ann. Section 58-9-320 as the statute dealing with transactions by telephone utilities with affiliates, and places the burden of proof on the company to demonstrate the reasonableness of fees and charges stemming from transactions with affiliates. The Consumer Advocate also states that, in order to fully investigate this matter, it is necessary to join FTCC as a party.

FTC generally opposes the Consumer Advocate's Motion. FTC argues that it is not appropriate for the Consumer Advocate to challenge the propriety of the wholesale rate and seek information from FTC or FTCC on how the wholesale rate was established. FTC further argues that S.C. Code Ann. Section 58-9-320 does not provide a basis upon which the Consumer Advocate can seek to join FTCC or obtain information proprietary to FTCC. We disagree.

Clearly, the wholesale rate charged by FTCC is relevant to the basis for the increase sought by FTC in this Docket. Accordingly, FTCC should be joined as a party to this case, so that further inquiry can be had in this area. We agree with the Consumer Advocate that, under S.C. Code Ann. Section 58-9-320, the burden of proof is on the

Company, in this case FTC, to demonstrate the reasonableness of fees and charges stemming from transactions with affiliates. In this case, joining FTCC as a party to this case, would aid in the Company's attempt to satisfy that burden of proof, and it would allow further investigation into the wholesale rate that that Company charges, which is the basis for the rate increase sought in the present docket. Accordingly, the Consumer Advocate's Motion is granted, and FTCC is hereby joined as a party to this case. We deny the Motion to Compel contained in the Consumer Advocate's Motion for Joinder. Since FTCC is now a party of record, the Consumer Advocate can inquire further into the matter through discovery. If FTC and/or FTCC are concerned about the proprietary nature of the information sought, it can consider discussing an appropriate proprietary agreement with the Consumer Advocate, which would appropriately set up parameters for the handling of the relevant information.

Because of the joinder of FTCC as a party to this proceeding, it is necessary to modify the prefiling dates and hearing date as cited by prior Commission Orders. Previously, by Order No. 2003-13, this Commission had established pre-filing deadlines in this Docket. In furtherance of administrative expediency by this Commission, the hearing date has been rescheduled and so shall several of the prefiling dates be rescheduled. Pursuant to 26 S.C. Regs.103-869(C)(Supp. 2002), the Commission hereby orders that twenty-five copies of the testimony and exhibits of FTCC shall be pre-filed on or before **February 25, 2003**, and that twenty-five copies of the testimony and exhibits of the Commission Staff and/or any intervenors shall be pre-filed on or before **March 11, 2003**. (Material may be post-marked on these dates.) Also, any rebuttal testimony and


exhibits shall be pre-filed on or before **March 18, 2003**, and any surrebuttal testimony and exhibits shall be pre-filed on or before **March 20, 2003**. (Material must be in the offices of the Commission and in the hands of the parties on these dates.) It should be noted that acceptance into the record of surrebuttal testimony and exhibits is subject to the discretion of the Commission. In addition, parties shall serve their pre-filed testimony and exhibits on all other parties of record as required by the Commission's Rules and Regulations. All parties are reminded that all witnesses must be present during any hearing in this matter at the call of the Chairman, or the Commission may decline to allow the witnesses' testimony to be read into the record of the proceeding, and/or may decline to allow the witnesses' exhibits to be entered into the evidence of the case.

The new hearing date shall be Tuesday, March 25, 2003 at 2:30 pm, in the offices of the Commission.

Please take note that any party requesting modification of this schedule must file a request for such modification with the Commission.

IT IS SO ORDERED.

BY ORDER OF THE COMMISSION:



Mignon L. Clyburn, Chairman

ATTEST:



Gary E. Walsh, Executive Director
(SEAL)